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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	No. C 08-01161 EDL
)	
Plaintiff,)	EX PARTE
)	
v.)	MOTION TO CONTINUE CASE
)	MANAGEMENT CONFERENCE;
APPROXIMATELY \$99,900 IN UNITED)	[PROPOSED] ORDER AND CASE
STATES CURRENCY,)	MANAGEMENT STATEMENT
)	
Defendant.)	

The United States submits this Motion to Continue Case Management Conference and Case Management Statement. Because no one has filed a claim or answer as required by Rule G, there is no party with whom the United States can file a joint Case Management Statement or a stipulated request to continue the Case Management Conference. For the reasons set forth below in Sections B.3 and F the United States moves to continue the Case Management Conference from July 22, 2008, to September 23, 2008, at 10:00 a.m. or such other time as is convenient for the court.

A. STATEMENT OF FACTS AND EVENTS UNDERLYING THE ACTION

This is a judicial forfeiture action, as authorized by 21 U.S.C. § 881(a)(4) and (6), involving the seizure of defendant: approximately \$99,900 in United States Currency, which was seized as money furnished or intended to be furnished by a person in exchange for a controlled

1 substance, or money traceable to such an exchange, or money used or intended to be used to
2 facilitate a violation of Subchapter I, Chapter 13 of Title 21 United States Code. The defendant
3 currency was seized during the execution of a search warrant on Michael Munoz's residence.
4 Michael Munoz and his mother, Gloria Munoz, both filed claims during the administrative
5 forfeiture proceedings. They were represented by L. Stephen Turer.

6 Cherubim E. Hurdle was unknown to the United States until the filing of his letter with the
7 Court on March 27, 2008.

8 The currency is in the custody of the United States Marshals Service.

9 **B. PRINCIPAL ISSUES**

10 **1. The principal factual issues that the parties dispute are:**

11 **2. The principal legal issues that the parties dispute are:**

12 No one has submitted a timely claim or answer and therefore no factual or legal issues have
13 been joined.

14 **3. The following issues as to service of process, personal jurisdiction, subject matter**
15 **jurisdiction, or venue remain unresolved.**

16 The civil forfeiture complaint was filed on February 27, 2008. Munoz and his mother were
17 served on or about March 3, 2008, at the offices of their attorney L. Stephen Turer, Esq., 610
18 Davis Street, Santa Rosa, California via Certified Mail. Service was also performed by
19 publication in newspapers and on the internet. Docket #7. Cherubim Hurdle (hereinafter
20 "Hurdle") may have discovered the claim through an internet search. Hurdle has filed letters or
21 claims in Texas, California, Michigan and Illinois, claiming to be a new business owner, who is
22 filing claims on behalf of future clients. In at least three jurisdictions district courts have stricken
23 Hurdle's claims and/or found them to be "indisputably meritless and nonsensical"). (Copies of
24 those orders were attached to the United States Case Management Statement filed May 29, 2008.
25 Docket #9.

26 The United States previously noted that it intended to file a Motion for Determination that
27 Cherubim Hurdle Has No Legal Interest in the Defendant Property. However, due to counsel's
28 absence from the office for two weeks in June and her involvement in the asset forfeiture aspects
of the execution of twenty-seven search warrants in Humboldt and Mendocino counties and the

subsequent filing of related civil forfeiture complaints, she has not been able to prepare the motion. Accordingly, the United States suggests that this matter be continued for approximately 60 days, to allow the United States to file the motion to strike Hurdle's claim and if appropriate, to thereafter file a request for entry of default. Additional steps taken by the United States to settle this matter are set forth in Section F, below.

4. The following parties have not yet been served:

See above.

5. Any additional parties that a party intends to join are listed below:

None.

6. Any additional claims that a party intends to add are listed below:

None.

C. ALTERNATIVE DISPUTE RESOLUTION

Not applicable at this time.

D. CONSENT TO JURISDICTION BY A MAGISTRATE JUDGE

Not applicable at this time.

E. DISCLOSURES

Forfeiture actions are exempt from the initial disclosures required in Rule 26, Federal Rules of Civil Procedure.

F. EARLY FILING OF MOTIONS

The United States and Michael Munoz have agreed on a settlement of this case. Hence, Michael Munoz has not filed a claim and answer in this case. (Gloria Munoz is deceased.) A stipulated settlement will be filed once the court has determined the issue of Hurdle's standing or legal interest in the defendant currency. During the last 30 days, in an effort to expedite the settlement of this case, counsel for the United States and Mr. Munoz's attorney, Stephen Turer, have also attempted to resolve any issues arising from a possible claim by the estate of Gloria Munoz to the defendant currency.

G. DISCOVERY

Not applicable at this time..

H. PRETRIAL AND TRIAL SCHEDULE

Not applicable at this time.

I. DATE OF NEXT CASE MANAGEMENT/STATUS

CONFERENCE _____

J. IDENTIFICATION AND SIGNATURE OF LEAD TRIAL COUNSEL

Susan B. Gray
Assistant United States Attorney
Asset Forfeiture Unit
450 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
415 436 7324

No one has submitted a claim or answer for any claimant to the defendant funds. (The United States' position is that Hurdle's letter does not constitute a claim.)

K. OTHER MATTERS/REQUEST TO CONTINUE

As noted above, no one has filed a claim or answer in this case. Given the current posture of this case, the United States requests that the Case Management Conference currently scheduled for July 22, 2008, be continued to September 23 , 2008, at 10:00 a.m. or at such time as is convenient for the court.

Respectfully submitted,

JOSEPH P. RUSSONIELLO
United States Attorney

Dated: ____ 7/14/08 ____

Respectfully submitted,

_____/S/
Susan B. Gray
Assistant United States Attorney

Based upon the foregoing, and GOOD CAUSE APPEARING, the Case Management Conference in the above-entitled case is continued from June 22, at 10:00 a.m. to _____, 2008, at 10:00 a.m..

IT IS SO ORDERED.

ELIZABETH D. LAPORTE
United States Magistrate Judge

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Northern District of California and is a person of such age and discretion to be competent to serve papers. The undersigned further certifies that she caused a copy of

- EX PARTE MOTION TO CONTINUE CASE MANAGEMENT CONFERENCE;
[PROPOSED] ORDER AND CASE MANAGEMENT STATEMENT

to be served this date via first class mail delivery upon the person(s) below at the place(s) and address(es) which are the last known address(es):

L. Stephen Turer, Esq.
610 Davis Street
Santa Rosa, CA 95401

Cherubim E. Hurdle
151 N. Pleasant Hill Blvd.
Pleasant Hill, IA 56327-7137

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Executed this 14th day of July, 2008, at San Francisco, California.

/S/
ALICIA CHIN
Paralegal/ AFU